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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 RICHARD ANDERSON,) 3:11-CV-0626-LRH (VPC)
9 Plaintiff,)
10 vs.)
11 ROBERT BANNISTER, et al.,)
12 Defendant(s).)

REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE

13 This report and recommendation is made to the Honorable Larry R. Hicks, United States District
14 Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B)
15 and the Local Rules of Practice, LR IB 1-4.

16 *Pro se* plaintiff, Richard Anderson, is currently incarcerated by the Nevada Department of
17 Corrections in the Northern Nevada Correctional Center. Plaintiff filed a first amended complaint
18 pursuant to 42 U.S.C. § 1983 alleging deliberate indifference to his medical needs (#13). Plaintiff's first
19 amended complaint was properly screened under 28 U.S.C. § 1915A and was permitted to proceed (#14).

20 Defendants' filed a motion to dismiss plaintiff's complaint for failure to exhaust administrative
21 remedies pursuant to the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a) (#27). In response to
22 defendants' motion, plaintiff has moved to voluntarily dismiss his complaint without prejudice pursuant
23 to Fed.R.Civ.P. Rule 41(a)(1) & (2) (#29). No opposition to plaintiff's motion was filed.

24 Therefore, the undersigned Magistrate Judge recommends that plaintiff's motion to voluntarily
25 dismiss complaint without prejudice (#29) be granted and plaintiff's first amended complaint (#13) be
26 dismissed without prejudice.

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The parties should be aware of the following:

2 1. They may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule IB 3-2 of the Local Rules
3 of Practice, specific written objections to this Report and Recommendation within fourteen (14) days
4 of receipt. These objections should be titled “Objections to Magistrate Judge’s Report and
5 Recommendation” and should be accompanied by points and authorities for consideration by the District
6 Court.

7 2. This Report and Recommendation is not an appealable order, and any notice of appeal
8 pursuant to Rule 4(a)(1), Fed. R. App. P., should not be filed until entry of the District Court's judgment.

RECOMMENDATION

10 For the reasons stated above, the undersigned Magistrate Judge recommends that the District
11 Judge enter an order as follows:

15 || DATED: January 3, 2013.

Valerie P. Cooke

UNITED STATES MAGISTRATE JUDGE